

# SENATE BILL No. 191

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 13-18-15-2; IC 36-4-3-11.4; IC 36-9-22-2.

**Synopsis:** Annexation remonstrance waivers. Provides that a waiver or release of the right of remonstrance against annexation effective after June 30, 2010, expires ten years after the date the waiver or release is executed.

**Effective:** July 1, 2010.

**Buck**

January 5, 2010, read first time and referred to Committee on Local Government.

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Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

## SENATE BILL No. 191

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 13-18-15-2 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) The persons  
3 involved shall negotiate the terms for connection and service under this  
4 chapter.

5 (b) If service is ordered under this chapter, a receiver of that service  
6 that is located in an unincorporated area may grant a waiver to a  
7 municipality providing the service. A waiver under this section:

8 (1) must waive the receiver's right of remonstrance against  
9 annexation of the areas in which the service is to be provided; and

10 (2) may be one (1) of the terms for connection and service  
11 described in subsection (a).

12 (c) The waiver, if granted:

13 (1) shall be noted on the deed of each property affected and  
14 recorded as provided by law; and

15 (2) is considered a covenant running with the land.

16 **(d) A waiver executed after June 30, 2010, by a receiver of the**  
17 **service expires ten (10) years after the date the waiver is executed.**



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SECTION 2. IC 36-4-3-11.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 11.4. A waiver of the right of remonstrance against annexation executed after June 30, 2010, expires ten (10) years after the date the waiver is executed.**

SECTION 3. IC 36-9-22-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) The power of the municipal works board to fix the terms of a contract under this section applies to contracts for the installation of sewage works that have not been finally approved or accepted for full maintenance and operation by the municipality on July 1, 1979.

(b) The works board of a municipality may contract with owners of real property for the construction of sewage works within the municipality or within four (4) miles outside its corporate boundaries in order to provide service for the area in which the real property of the owners is located. The contract must provide, for a period of not to exceed fifteen (15) years, for the payment to the owners and their assigns by any owner of real property who:

(1) did not contribute to the original cost of the sewage works; and

(2) subsequently taps into, uses, or deposits sewage or storm waters in the sewage works or any lateral sewers connected to them;

of a fair pro rata share of the cost of the construction of the sewage works, subject to the rules of the board and notwithstanding any other law relating to the functions of local governmental entities. However, the contract does not apply to any owner of real property who is not a party to it unless it has been recorded in the office of the recorder of the county in which the real property of the owner is located before the owner taps into or connects to the sewers and facilities. The board may provide that the fair pro rata share of the cost of construction includes interest at a rate not exceeding the amount of interest allowed on judgments, and the interest shall be computed from the date the sewage works are approved until the date payment is made to the municipality.

(c) The contract must include, as part of the consideration running to the municipality, the release of the right of the parties to the contract and their successors in title to remonstrate against pending or future annexations by the municipality of the area served by the sewage works. **A release executed by the parties after June 30, 2010, expires not more than ten (10) years after the date the contract is executed.** Any person tapping into or connecting to the sewage works contracted for is considered to waive ~~his~~ **the person's** rights to

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1 remonstrate against the annexation of the area served by the sewage  
2 works. **A person who taps into or connects to the sewage works**  
3 **contracted for after June 30, 2010, is considered to waive the**  
4 **person's rights to remonstrate against the annexation of the area**  
5 **served by the sewage works for not more than ten (10) years after**  
6 **the date of the connection.**

7 (d) Subsection (c) does not apply to a landowner if all of the  
8 following conditions apply:

9 (1) The landowner is required to connect to the sewage works  
10 because a person other than the landowner has polluted or  
11 contaminated the area.

12 (2) The costs of extension of or connection to the sewage works  
13 are paid by a person other than the landowner or the municipality.

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